

REMARKS

The above-referenced patent application has been reviewed in light of the Office Action referenced above. Reconsideration of the above-referenced patent application in view of the following remarks is respectfully requested.

Claims 156-181 are pending in the application. No amendment is being made to the claims.

The rejection of claims 156-181 under 35 U.S.C. 103:

The Examiner has rejected claims 156-179 under 35 USC 103 as being unpatentable over US Patent No. 4,827,508 (hereinafter "Shear") in view of US Patent No. 4,850,017 (hereinafter "Matyas"); and has rejected claims 180-181 further in view of US Patent No. 4,588,991 (hereinafter "Atalla"). These rejections are respectfully traversed.

In rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. MPEP 2142. To establish a prima facie case of obviousness, three basic criteria must be met: first, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; second, there must be a reasonable expectation of success; finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP 2142. It is asserted that the Examiner has not established that the proposed combination meets these requirements.

Independent claim 156 recites "*supplying to a user at least one of a plurality of utilization permit keys that corresponds only to at least one of different types of uses of the digital data requested by the user, each of the utilization permit keys permitting only the corresponding at least one of the different types of uses of the digital data; and decrypting*

BEST AVAILABLE COPY

encrypted digital data using the at least one of the plurality of utilization permit keys for performance of only the requested use of the digital data". Contrary to the assertions of the Office Action, the proposed combination of references does not disclose or suggest this limitation.

The Examiner concedes that "Shear does not disclose the keys corresponding to at least one of different types of uses of digital data requested by the user, each of the utilization permit keys permitting only the corresponding at least one of the different types of uses of the digital data." See page 3 of the current Office Action. The Examiner attempts to cure Shear of this failure through combination with Matyas. Assignee respectfully submits the Examiner has failed to establish that Matyas cures Shear of this failure.

Specifically, the Examiner asserts that Matyas discloses the "keys correspond only to at least one of different types of uses of digital data requested by the user (column 8 lines 7-61)... [e]ach of the utilization permit keys permitting only the corresponding at least one of the different types of uses of the digital data (column 7 lines 57-67)." See page 3 of the current Office Action. Assignee can find no support in column 7 lines 57-67 or in column 8 lines 7-61 of Matyas for the Examiner's contention that Matyas discloses the keys corresponding to "at least one of different types of uses of digital data requested by the user". Rather, the Examiner has only cited to portions of Matyas prescribing how the key itself may be limited to one use or another but has not established that any portion of Matyas discusses any limitation on the "performance of only the requested use of the digital data". See, for example column 7, lines 60-64 of Matyas reading in part "an associated control value C which prescribes how the key may be used; e.g., encrypt only, decrypt only, generation of message authentication codes, verification of message authentication codes, etc.". In the absence of the Examiner pointing to such a disclosure in the proposed combination, Assignee requests that the rejection be withdrawn

as the Examiner failed to establish that the proposed combination renders obvious all of the features of claim 156.

Claims 157-181 are similarly not obvious, at least on the same or similar basis as claim 156.

It is noted that claimed subject matter may be patentably distinguished from the cited patent for additional reasons; however, the foregoing is believed to be sufficient. Likewise, it is noted that the Assignee's failure to comment directly upon any of the positions asserted by the Examiner in the office action does not indicate agreement or acquiescence with those asserted positions.

CONCLUSION

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

If the Examiner has any questions, she is invited to contact the undersigned at (503) 439-6500.

ADDITIONAL FEES

Any fees or extensions of time believed to be due in connection with this amendment are enclosed herein; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account 50-3703.

Respectfully submitted,
ATTORNEY FOR ASSIGNEE

Dated: March 20, 2006

/James J. Lynch Reg. No. 50,153/

James J. Lynch
Reg. No. 50,153

Customer No. 43831

Berkeley Law and Technology Group, LLC
1700 NW 167th Place, Suite 240
Beaverton, OR 97006
503.439.6500